IN THE HIGH COURT OF JUDICATURE AT PATNA
Cr.Misc. No.43283 of 2008
BABLI KUMARI
Versus
STATE OF BIHAR
With
Cr.Misc. No.44019 of 2008
MANTOSH KUMAR
Versus
STATE OF BIHAR
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2. 18.11.2008 Heard Sri Ajay Kumar Thakur, Advocate for the two petitions and the learned A.P.P. for the State.

The two petitioners are in custody in a case under Section 366A etc IPC and are not named in the FIR. The FIR is on the basis of a written report which was submitted by the brother of the victim Puja Kumari aged about 16 years.

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The lady was aged 16 years is not disputed. It is also not disputed by the petitioners that she was taken away by some one or any of the accused.

The contention is that the petitioners were not participating in the offence and it is a belated insertion of their names hence they are in custody. The further contention is that the insertion of the names of the petitioners was through the statement of the girl Puja Kumari in her statement under Section 164 Cr.P.C and those from the very inception of the offence. The further contention is that if it was like that then the names of the two petitioners ought

to have found place in the FIR as the informant's mother could have very well told the informant as to who are the persons. There is no room for further insertion of any accused in the column of the accused or in the written report. The further contention is that there was some relationship between the lady and one Raju Jha who were prosecuting computer education together and might be that the said Raju Jha has taken the lady away or she had gone away with him.

Considering the fact that petitioner Babli Kumari is a lady and is in custody and whose name like that of petitioner Mantosh Kumar does not figure in the FIR, let the above named two petitioners be released from custody on furnishing bond of Rs.10,000/-(ten thousand)each with two sureties of the like amount each to the satisfaction of Chief Judicial Magistrate, Begusarai in Matihani P.S.Case No.69 of 2008.

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(Dharnidhar Jha, J.)

B.Kr.